

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DARYLE L. HUMPHRIES,

Plaintiff,

v.

P. CURRY,

Defendant.

Case No. 2:22-cv-00090 KJN PC

**~~PROPOSED~~ ORDER GRANTING
DEFENDANT'S MOTION TO MODIFY
THE DISCOVERY AND SCHEDULING
ORDER**

Plaintiff is a state prisoner, proceeding pro se. On August 9, 2023, defendant filed a motion to modify the scheduling order. As set forth below, defendant's motion is granted.

"The district court is given broad discretion in supervising the pretrial phase of litigation." Johnson v. Mammoth Recreations, Inc., 975 F.2d 604, 607 (9th Cir. 1992) (citation and internal quotation marks omitted). Rule 16(b) provides that "[a] schedule may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). "The schedule may be modified 'if it cannot reasonably be met despite the diligence of the party seeking the extension.'" Zivkovic v. Southern California Edison Co., 302 F.3d 1080, 1087 (9th Cir. 2002) (quoting Johnson, 975 F.2d at 607).

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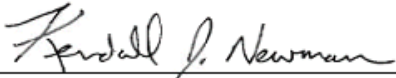
1 Defendant's counsel deposed plaintiff and an inmate witness but needs additional time to
2 receive and review numerous records and draft a dispositive motion. (ECF No. 35-1.) In
3 addition, counsel will be out of the office a large part of August 2023. (ECF No. 35-1 at 5.)

4 Good cause appearing, defendant's motion to modify the Discovery and Scheduling Order
5 (ECF No. 26) is granted. Defendant is granted a forty-five day extension of time to file a motion
6 for summary judgment on or before September 25, 2023.

7 Accordingly, IT IS HERBY ORDERED that:

- 8 1. Defendant's motion (ECF No. 35) is granted;
- 9 2. The pretrial motions deadline is extended to September 25, 2023; in all other respects,
10 the January 25, 2023 scheduling order remains in effect (ECF No. 26).

11 Dated: August 11, 2023

12 
13 KENDALL J. NEWMAN
14 UNITED STATES MAGISTRATE JUDGE

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